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Date: April 23, 2004

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To: Centralized Facsimile Number      Fax #: 703-872-9306      Confirm#:

Client Matter#: 19788-3802

From: Jennifer K. Holmes      Sender's Number: 617-832-1770      User #: 4827

Total Pages Sent (Including Cover Sheet): 7      Office: Boston

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**Message**

Re: Application No.: 09/538,106

Filed: March 29, 2000

Title: Cell Regulatory Genes, Encoded Products, and Uses Related Thereto  
Attorney Docket No. HMV-038.02 (19788-3802)

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Dear Sir/Madam:

Enclosed in connection with the above-referenced application, subject to a certificate of facsimile transmission dated April 22, 2004 to the above FAX number, are the following:

Petition Under 37 CFR 1.28(c) to Pay Deficiency in Fees (3 pages); and  
 (Copy of Petition Under 37 CFR 1.28(c) to Pay Deficiency in Fees (3 pages).

*Jennifer K. Holmes*  
 Jennifer K. Holmes  
 Reg. No. 46,778

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**IMPORTANT - PLEASE READ**

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**OFFICIAL**  
**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application No. 09/538,106	First named inventor: McKeon
Filed: March 29, 2000	
For: Cell Regulatory Genes, Encoded Products, and Uses Related Thereto	Attorney Docket No: HMV-038.02

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**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that the foregoing document is being transmitted by facsimile to the United States Patent Office, facsimile number: 703-872-9306.

April 23, 2004  
Date

  
Fareesha Ali

**PETITION UNDER 37 CFR 1.28(c) TO PAY DEFICIENCY IN FEES**

Mail Stop Petitions  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir/Madam:

The Applicants petition to alter the status of the subject application from small entity to large entity, and declare that:

1. The status of small entity was established in good faith;
2. Small entity fees were paid in good faith;
3. It was discovered that the status as a small entity was established in error; and,
4. The Commissioner is hereby authorized to charge the below total deficiency to Deposit Account No. 06-1448, Reference HMV-038.02.

FHBoston/1043237.1

Type of fee erroneously paid as small entity and current fee for a non-small entity (1.28(c)(2)(ii)(a))	Small entity fee actually paid and date paid (1.28(c)(2)(ii)(b))	Deficiency Amount (1.28(c)(2)(ii)(c))
Type: Filing Fee (\$770) & Surcharge (\$130), 3 Independent Claims (\$258) Current Non-small Fee: \$1,158	Date Paid: October 6, 2000  Small entity Fee paid: \$540	Deficiency: \$618
Type: Petition for Two-Month Extension of Time Current Non-small Fee: \$420	Date Paid: October 6, 2000  Small entity Fee paid: \$195	Deficiency: \$225
Type: Petition for One-Month Extension of Time Current Non-small Fee: \$110	Date Paid: December 21, 2001  Small entity Fee paid: \$55	Deficiency: \$55
Type: Petition for One-Month Extension of Time Current Non-small Fee: \$110	Date Paid: August 26, 2002  Small entity Fee paid: \$55	Deficiency: \$55
Type: Excess Claim Fee Current Non-small Fee: \$18 each for 8 claims in excess of twenty, or \$144	Date Paid: May 20, 2003  Small Entity Fee paid: \$72	Deficiency: \$72
Type: Petition for Three-Month Extension of Time Current Non-small Fee: \$950	Date Paid: May 20, 2003  Small entity Fee paid: \$465	Deficiency: \$485
Type: Notice of Appeal Current Non-small Fee: \$330	Date Paid: November 11, 2003  Small entity Fee paid: \$165	Deficiency: \$165
Type: Request for Continued Examination Current Non-small Fee: \$770	Date Paid: March 31, 2004  Small entity Fee paid: \$385	Deficiency: \$385

Type of fee erroneously paid as small entity and current fee for a non-small entity (1.28(c)(2)(ii)(a))	Small entity fee actually paid and date paid (1.28(c)(2)(ii)(b))	Deficiency Amount (1.28(c)(2)(ii)(c))
Type: Petition for Three-Month Extension of Time  Current Non-small Fee: \$950	Date Paid: March 31, 2004  Small entity Fee paid: \$475	Deficiency: \$475
		Total Deficiency: \$2,535.00

5. The Commissioner is also hereby authorized to credit any overpayment, and charge any further deficiency, to Deposit Account No. 06-1448, Reference HMV-038.02.

Respectfully Submitted,

Date: April 23, 2004  
**Customer No: 25181**  
 Patent Group  
 Foley Hoag LLP  
 World Trade Center West  
 155 Seaport Boulevard  
 Boston, MA 02210-2600

  
 Jennifer K. Holmes  
 Reg. No. 46,778